IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Bail Appl..No. 3778 of 2007()

CRIME NOT KNOWN OF KONDOTTY POLICE STATION

: PETITIONER/ACCUSED

MADASSERY ALI, S/O MOIDEEN,
CHERUKUNDIL HOUSE, CHEEKKODE,
CHERUVAYOOR, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: STATE

THE STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, KONDOTTY POLICE
STATION - THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.3778 of 2007

Dated this the 13th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner apprehends arrest in a crime registered, inter alia, under Sections 353 and 506(ii) I.P.C. The crux of the allegations is that when the defacto complainant stopped a lorry on the alleged ground that it was carrying river sand, he was threatened and deterred from the performance of his official duties. The petitioner is alleged to be the owner of the vehicle. The petitioner is a person by name Madassery Ali. In the complaint filed by the defacto complainant before police, it is stated that action may be taken against Madassery Mohammed, the owner of the vehicle and 3 other persons who were present at the scene. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that he is not the accused - Madassery Mohammed. The petitioner is only Madassery Ali. That incongruity in the name is of no crucial relevance in as much as there is no dispute that the petitioner Madassery Ali and not Madassery Mohammed is the owner of the lorry.

3. Be that as it may, the learned counsel for the petitioner contends that, at any rate, on the allegations raised, he cannot have

any culpability for the offences alleged under Sections 353 and 506(ii) I.P.C. Except that he is the owner of the lorry and the offence has been committed by the employees/persons present in the lorry, he has no nexus with the alleged offence under Sections 353 and 506(ii) I.P.C. In these circumstances, anticipatory bail may be granted to the petitioner, it is prayed. The learned Public Prosecutor does not oppose the said prayer and I am satisfied, in the facts and circumstances of this case, to which a brief reference has been made already, that the petitioner is entitled to be granted anticipatory bail.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 20.07.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 21.07.2007 and 22.07.2007 and thereafter as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned

Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 20.07.07 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 20.07.07.

(R.BASANT, JUDGE)

rtr/-